



## **POSTAL REGULATORY COMMISSION**

### **39 CFR Part 3001**

**[Docket No. RM2013-1; Order No. 1742]**

#### **Revisions to Rules of Practice; Corrections**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Correcting amendments.

**SUMMARY:** The Postal Regulatory Commission published a document in the **Federal Register** on June 18, 2013 (78 FR 36434) revising certain Commission rules of practice. That document inadvertently omits the word "except" in the introductory text of 39 CFR 3001.7(b). In addition, an amendatory instruction led to the unintended omission of §3001.7(b)(1) through (b)(5) in the Code of Federal Regulations. This document corrects the final regulations by restoring the omitted elements, consistent with the scope and intent of Order No. 1742.

**DATES:** *Effective:* [INSERT DATE OF PUBLICATION IN FEDERAL

REGISTER] and is applicable beginning June 18, 2013.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, 202-789-6820.

**SUPPLEMENTARY INFORMATION:** This document reflects technical amendments based on a review of the consistency of Order No. 1742 as issued

with the codification of the Commission's rules in title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Freedom of information, Postal Service, Sunshine Act.

Accordingly, 39 CFR part 3001 is corrected by making the following correcting amendments:

**PART 3001—RULES OF PRACTICE AND PROCEDURE**

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(d); 503; 504; 3661.

**Subpart A—Rules of General Applicability**

2. In § 3001.7, revise paragraph (b) to read as follows:

**§ 3001.7 Ex parte communications.**

\* \* \* \* \*

(b) *Prohibition.* In any agency proceeding conducted under section 3661 of the Act; noticed and set for hearing by the Commission pursuant to §§ 3001.17 and 3001.18(a); or any proceeding conducted pursuant to part 3025 of this chapter except to the extent required for the disposition of ex parte matters as authorized by law:

(1) Interested persons outside the Commission and non-decision-making Commission personnel shall not make or knowingly cause to be made to any Commission decision-making personnel ex parte communications relevant to the merits of the proceeding;

(2) Commission decision-making personnel shall not make or knowingly cause to be made to any interested person outside the Commission or to non-decision-making Commission personnel ex parte communications relevant to the merits of the proceeding;

(3) Commission decision-making personnel who receive ex parte communications relevant to the merits of the proceeding shall decline to listen to such communications and explain that the matter is pending for determination. Any recipient thereof shall advise the communicator that he/she will not consider the communication and shall promptly and fully inform the Commission in writing of the substance of and the circumstances attending the communication, so that the Commission will be able to take appropriate action.

(4) Commission decision-making personnel who receive, or who make or knowingly cause to be made, communications prohibited by this paragraph shall place on the public record of the proceeding:

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications;

and

(iii) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (b)(4)(i) and (b)(4)(ii) of this section.

(5) Requests for an opportunity to rebut, on the record, any facts or contentions contained in an ex parte communication which have been placed on the public record of the proceeding pursuant to paragraph (b)(4) of this section

may be filed in writing with the Commission. The Commission will grant such requests only where it determines that the dictates of fairness so require.

Generally, in lieu of actually receiving rebuttal material, the Commission will direct that the alleged factual assertion and the proposed rebuttal be disregarded in arriving at a decision.

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Shoshana M. Grove,

*Secretary.*

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